

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BRUCE X. COOPER,

No. 4:21-CV-01533

Petitioner,

(Chief Judge Brann)

v.

KEVIN RANSOM,

Respondent.¹

MEMORANDUM OPINION

SEPTEMBER 16, 2022

Petitioner Bruce X. Cooper is currently incarcerated at the State Correctional Institution in Dallas, Pennsylvania (SCI Dallas). He filed the instant *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, seeking immediate release from custody due to the COVID-19 pandemic and alleged conditions of confinement at SCI Dallas. Because Cooper has failed to exhaust state remedies, the Court must dismiss his Section 2254 petition.

I. BACKGROUND

According to Cooper's petition, he is serving a sentence of life without parole and is currently imprisoned at SCI Dallas.² Cooper avers that in December

¹ Although Cooper names multiple respondents, the only proper respondent in this habeas corpus action challenging physical confinement is the superintendent of Cooper's facility of incarceration, *i.e.* his "immediate custodian." *See Rumsfeld v. Padilla*, 542 U.S. 426, 434-35, 439 (2004) (citations omitted); 28 U.S.C. § 2242; 28 U.S.C. § 2254 Rule 2(a).

² Doc. 1 at 1.

2020, he tested positive for the COVID-19 virus and was quarantined.³ He asserts that he is categorized as “higher risk” for infection and complications from the virus as determined by the Centers for Disease Control and Prevention (CDC).⁴ Cooper alleges that he is 65 and suffers from serious medical conditions including blood clots, heart disease, hyponatremia, respiratory issues, dyslipidemia, and chronic anticoagulant use.⁵

Thus, according to Cooper, he is “in imminent danger” of reinfection and injury due to the alleged conditions of confinement as SCI Dallas.⁶ He avers that these conditions include—among other things—a largely unvaccinated correctional staff, correctional officers who refuse to mask, insufficient COVID-19 testing in the facility, and the inability of inmates to socially distance.⁷ Cooper challenges “his detention as unconstitutional and seeks relief in the form of[] immediate compassionate release from detention.”⁸

II. DISCUSSION

Assuming, without deciding, that Cooper can seek immediate release from state custody under 28 U.S.C. § 2254 based on a conditions-of-confinement claim

³ *Id.* at 2 ¶ 1. Cooper also “assume[s]” that he contracted COVID-19 in February 2020 due to experiencing a collapsed lung “for no apparent reason” and having to be hospitalized twice for serious respiratory issues. *Id.* at 4 ¶ 15.

⁴ *Id.* at 2 ¶ 2.

⁵ *Id.* at 2 ¶ 3.

⁶ *Id.* at 2-3 ¶¶ 3-5.

⁷ *Id.* at 3-7 ¶¶ 4, 9-13, 22, 27, 32.

⁸ *Id.* at 8 ¶ 38.

invoking state prison conditions,⁹ Cooper must first exhaust available state-court remedies. Claims raised in a habeas corpus petition under Section 2254 generally are required to be exhausted in state court.¹⁰ “Exhaustion addresses federalism and comity concerns by affording the state courts a meaningful opportunity to consider allegations of legal error without interference from the federal judiciary.”¹¹ Exhaustion should not be “overlooked lightly,”¹² and will not be excused simply because a petitioner believes his claims will be denied on the merits in state court.¹³ To properly exhaust a claim, a petitioner must “fairly present” the claim to each level of the state courts.¹⁴ And the “burden of establishing” proper exhaustion “falls upon the petitioner.”¹⁵

Cooper has—or at least had—available state court remedies. First, Cooper could have sought compassionate release with the sentencing court under 42 P.A. CONS. STAT. § 9777. Cooper does not allege that he filed any such petition with the sentencing court, nor is such a petition reflected on his state-court docket.¹⁶

⁹ The United States Court of Appeals for the Third Circuit has recognized such habeas claims in “extreme cases” with respect to habeas petitions filed by immigration detainees under 28 U.S.C. § 2241. *See Hope v. Warden York Cnty. Prison*, 927 F.3d 310, 324-25 (3d Cir. 2020).

¹⁰ *See* 28 U.S.C. § 2254(b)(1)(A).

¹¹ *Parker v. Kelchner*, 429 F.3d 58, 61 (3d Cir. 2005) (internal quotation marks and citations omitted).

¹² *Id.* at 62 (citation omitted).

¹³ *Id.* at 63-64.

¹⁴ *Lines v. Larkins*, 208 F.3d 153, 159 (3d Cir. 2000).

¹⁵ *Id.* (citing *Lambert v. Blackwell*, 134 F.3d 506, 513 (3d Cir. 1997)).

¹⁶ *See Commonwealth v. Cooper*, No. CP-51-CR-0438741-1984 (Pa. Ct. Com. Pl. Phila. Cnty.).

Cooper also could have sought relief through a state petition for a writ of habeas corpus pursuant to 42 PA. CONS. STAT. § 6502. Cooper maintains that he did file such a petition in 2021.¹⁷ He then argues that Pennsylvania courts will not address a condition-of-confinement claim through a habeas petition, so seeking such relief is futile and requires filing a federal habeas petition.

Cooper's argument fails for two reasons. First, even though he has filed a habeas petition in state court (and assuming the petition raises the same COVID-19-related conditions-of-confinement claim), that petition has not been adjudicated nor appealed to each level of the state courts.¹⁸ Second, the Supreme Court of Pennsylvania has explicitly held that “habeas corpus is available to secure relief from conditions constituting cruel and unusual punishment, even though the detention itself is legal.”¹⁹ If, as Cooper claims, the Court of Common Pleas of Philadelphia County incorrectly interprets his habeas corpus conditions-of-confinement petition as one seeking relief from his prior murder conviction, that issue must be resolved through a motion for reconsideration with the trial court or an appeal to the Superior Court of Pennsylvania, not by a federal habeas court.

¹⁷ See Doc. 13 at 2; Doc. 13-2 at 1; *see also Cooper*, No. CP-51-CR-0438741-1984 (Pa. Ct. Com. Pl. Phila. Cnty.). Cooper neither provides a copy of this petition nor alleges its substance in the instant Section 2254 petition.

¹⁸ See *Cooper*, No. CP-51-CR-0438741-1984 (Pa. Ct. Com. Pl. Phila. Cnty.).

¹⁹ *Commonwealth ex rel. Bryant v. Hendrick*, 280 A.2d 110, 113 (Pa. 1971); *see Commonwealth ex rel. Fortune v. Dragovich*, 792 A.2d 1257, 1259 (Pa. 2002) (explaining that habeas corpus may only be used to challenge “illegal confinement” or “conditions of confinement that constitute cruel and unusual punishment”).

Cooper, therefore, has failed to carry his burden to show that he has exhausted his state-court remedies. Accordingly, the Court will dismiss without prejudice Cooper's Section 2254 petition.

III. CONCLUSION

For the foregoing reasons, the Court will dismiss Cooper's petition for a writ of habeas corpus under 28 U.S.C. § 2254. The Court will likewise deny a certificate of appealability, as Cooper has failed to make a substantial showing of the denial of a constitutional right.²⁰ An appropriate Order follows.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
Chief United States District Judge

²⁰ See 28 U.S.C. § 2253(c)(2).